

**OPINION
45-221**

May 18, 1945 (OPINION)

OFFICERS

RE: May Furnish Own Bond - Same Not to be Paid for by Municipality

This office has received your letter dated May 16, 1945, wherein you request an interpretation of section 26-2322 of the North Dakota Revised Code of 1943, which reads as follows:

"Any person elected or appointed to office, in lieu of the bond provided for in this chapter, may furnish a bond issued by a duly authorized surety company, but no officer or board of the state or of any county, city, village, school district, or township shall pay for such bond or bonds out of any public funds, except for such bonds as are procured to cover an excess over the amount carried in the fund."

It is our understanding that the bonding fund ordinarily places no limitation on its liability. If, however, the commissioner of insurance should deem it advisable to limit the liability of the fund in a given case, it is our opinion that the amount of insurance required in excess of the amount carried by the fund may be covered by bonds issued by duly authorized surety companies, and that the cost of such bond may then be paid out of public funds. It is also our opinion that public funds may not be used to pay for any surety bond unless and until the commissioner of insurance has definitely limited the liability of the bonding fund.

NELS G. JOHNSON

Attorney General